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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,801	02/20/2004	Louis B. Rosenberg	IMMR-038/06US	5176
7590 06/17/2005				
Thelen Reid & Priest LLP P.O. Box 640640 San Jose, CA 95164-0640			EXAMINER WACHSMAN, HAL D	
			ART UNIT 2857	PAPER NUMBER

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,801

Applicant(s)

ROSENBERG ET AL.

Examiner

Hal D. Wachsman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-78 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 69, 74 and 77 is/are allowed.
 6) ☒ Claim(s) 61-63, 66-68, 70, 72, 75 and 76 is/are rejected.
 7) ☒ Claim(s) 64, 65, 71, 73 and 78 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____.

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5-16-05 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 61-63, 66-68, 70, 72, 75 and 76 are rejected under 35 U.S.C. 102(b) as being anticipated by Baxter (5,209,131).

As per claim 61, Baxter (figure 19) discloses “a support base”. Baxter (Abstract, figures 19, 20, col. 24 lines 12-48, col. 28 lines 60-66) discloses “a turntable coupled to the support base and configured to rotate....measurements of the three-dimensional geometry of the object”. Baxter (figures 19, 20, col. 24 lines 32-60, col. 26 lines 52-57, col. 28 lines 62-66) discloses “a sensor coupled to the support base, the sensor configured to measure an angular rotation of the turntable....to determine the three-dimensional geometry of the object based on the measurement and the angular rotation”.

As per claim 62, Baxter (figures 19, 20) discloses the feature of this claim.

As per claim 63, Baxter (Abstract, figures 19, 20) discloses the feature of this claim.

As per claim 66, Baxter (see at least figure 19) discloses the feature of this claim.

As per claim 67, Baxter (figure 19, col. 2 lines 34-45) discloses the feature of this claim.

As per claim 68, Baxter (figures 19, 20, col. 10 lines 19-29, col. 24 lines 23-39) discloses the feature of this claim.

As per claim 70, Baxter (figure 19, col. 11 lines 2-4) discloses the feature of this claim.

As per claim 72, Baxter (Abstract, figures 19, 20, col. 3 lines 4-9, 17-20) discloses "an apparatus including at least one sensor configured to detect information...three-dimensional geometry...provide the information to a processor". Baxter (figure 19) discloses the rotary table with a base. Baxter (Abstract, figures 19, 20, col. 24 lines 12-48, col. 28 lines 60-66) discloses "a turntable coupled to the base and being configured to rotate about an axis...subsequent detections of the information associated with the three-dimensional geometry of the object". Baxter (figures 19, 20, col. 24 lines 32-60, col. 26 lines 52-57, col. 28 lines 62-66) discloses "a turntable sensor coupled to the base, the turntable sensor configured to measure a rotation of the turntable...a determination of the three-dimensional geometry being based on the turntable data".

As per claim 75, Baxter (Abstract, figures 19, 20) discloses the feature of this claim.

As per claim 76, Baxter (figure 19, col. 2 lines 34-45) discloses the feature of this claim.

4. Claims 69, 74 and 77 are allowed.

Claims 64, 65, 71, 73 and 78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed 5-16-05 have been fully considered but they are not persuasive with respect to the claims that remain rejected above. With respect to the arguments concerning claim 61, the Examiner first respectfully notes that claim 61 states "...the turntable and the object configured to rotate about the axis one of during making a measurement of the three-dimensional geometry of the object and between making measurements from a plurality of measurements of the three-dimensional geometry of the object". As this clearly states "one of" the prior art reference, Baxter therefore only needs to meet one of these two choices which follows the "one of". On page 14 of the reply, the Applicant argues "...clearly stylus tip 56 is not and cannot be used to determine a three-dimensional geometry of an object while the turntable is being rotated" however in the instance where we have the second choice i.e. "between making measurements from a plurality of measurements of the three-dimensional geometry of the object" then the turntable and the object are configured to rotate about the axis between between making measurements from a plurality of measurements of

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the three-dimensional geometry of the object and thus the three-dimensional measurements being used in determining the three-dimensional geometry of the object are being taken in fact *when the turntable is not being rotated* and thus "...clearly stylus tip 56 is not and cannot be used to determine a three-dimensional geometry of an object while the turntable is being rotated" is an unclaimed merit or distinction in the instance described above. On page 14 of the reply the Applicant argues "Baxter does not teach a processor configured to determine the three-dimensional geometry of the objected based on the measurement and the angular rotation" and referring to Figure 20 and col. 24 lines 49-52 to explain why. However, as shown in the prior Office action in the rejection of claim 61, it was not just figure 20 and col. 49-52 that was applied to this feature but also figure 19, col. 24 lines 32-48, 53-60, col. 26 lines 52-57 and col. 28 lines 62-66 of Baxter and these sections were not addressed here. With respect to claim 62, the Applicant argues on page 15 "However, neither Figure 19 nor Figure 20 in Baxter describe making a measurement of the three-dimensional geometry of the object". However, this was not the feature of dependent claim 62 but rather claim 62 stated "The device of claim 61, wherein the turntable further includes interface electronics configured to provide the sensor data associated with the angular rotation to the processor." Similarly, on page 16 of the reply, with respect to claim 66, the Applicant argues "However, Figure 19 in Baxter does not describe "making a measurement of the three-dimensional geometry of the object" as claimed in Claim 66." However, this was not the feature of dependent claim 66 but rather claim 66 stated "The device of claim 63, wherein the support base is coupled to a base of the probe such that a position and

an orientation of the turntable is fixed relative to the probe". This same type of situation also occurs in the arguments with respect to dependent claims 67, 68 and 76.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hal D Wachsman
Primary Examiner
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HW
June 13, 2005